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EX PARTE PRESENTATION

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **Retrans Quiet Period, *Ex Parte* Presentation in Dockets No. 00-96, 98-120, 07-198, 07-148**

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, DISH Network Corporation ("DISH Network") submits this letter summarizing an ex parte presentation from yesterday in the above-referenced dockets. I had a telephone conversation with Eloise Gore of the Media Bureau advocating for a retrans quiet period to ensure that consumers do not lose programming as a result of retransmission consent disputes in the immediate time surrounding the February 2009 digital transition.

With respect to timing, I urged that the retrans quiet period be structured to capture as many potential retransmission consent disputes around the digital transition as possible to minimize any ill effect on a successful digital transition. Accordingly, the retrans quiet period should begin on December 15, 2008: any broadcast stations carried on pay TV platforms on that date should remain in place up to and through the transition. Both the cable and satellite industries have noted that a sizeable proportion of retransmission consent agreements will end in December 2008. As a practical matter, this means that programming negotiations about the continued carriage of broadcast stations on cable, telco and satellite systems will begin in earnest long before January 2009. Indeed, we are currently in active negotiations with numerous station groups and hope to have our digital deals done well in advance of the transition. Come February 17, however, retrans disputes may well be ongoing with programming unavailable to pay TV subscribers. As a number of parties have noted, the risk that those viewers misunderstand why channels are missing is quite high: consumers may wrongly assume that they are not ready for digital transition and take unnecessary steps and investments in new TVs, converter boxes, or other subscription services.

Yet, if the Commission were to begin the retrans quiet period some time in mid-January (or even later in February as NAB now suggests), the retrans quiet period would be of little consequence and would not protect against this identified (and agreed upon) harm to consumers. Specifically, come mid-January, broadcast stations might be taken down as part of retransmission consent disputes. Freezing the status quo at that point is too late – programming has already been dropped and would not be re-instated until a commercial agreement is reached between the broadcaster and the pay TV provider. DISH Network is

not aware of any instances in which broadcast stations have been dropped as a result of retransmission consent disputes and then returned to the pay TV provider line-up absent a new commercial agreement. The start of any retrans quiet period, therefore, should coincide with the likely starting point of retransmission consent disputes in mid-December.

As for the end point, DISH Network believes that the longer the separation between the February transition date and the end of the retrans quiet period the better for consumers. For that reason, we have been supportive of a May end date as proposed by mid-sized cable providers in April. That said, NAB's proposed March 4 end date may be a satisfactory compromise position as long as the retrans quiet period begins in mid-December.

Respectfully submitted,

/s/ Linda Kinney

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cc: E. Gore